

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
7

\* \* \*

8 CHROME HEARTS, LLC, a Delaware LLC, Case No. 2:12-cv-00280-MMD-NJK  
9

10 Plaintiff,

v.

ORDER ACCEPTING REPORT AND  
RECOMMENDATION

11 XRTZ, INC., dba BOUTIQUE TALULAH,  
12 an unknown business entity; and DOES 1-  
10, inclusive,

13 Defendants.  
14

15 Before the Court is Magistrate Judge Nancy J. Koppe's Report and  
16 Recommendation ("R&R") that the Court enter default judgment against Defendant  
17 XRTZ, Inc. (Dkt. no. 47.) Plaintiff has also filed an Application for Default Judgment.  
18 (Dkt. no. 49.) Defendant has not objected to the R&R. Nor has Defendant responded to  
19 Plaintiff's Application.

20 This Court "may accept, reject, or modify, in whole or in part, the findings or  
21 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely  
22 objects to a magistrate judge's report and recommendation, then the court is required to  
23 "make a *de novo* determination of those portions of the [report and recommendation] to  
24 which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however,  
25 the court is not required to conduct "any review at all . . . of any issue that is not the  
26 subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth  
27 Circuit has recognized that a district court is not required to review a magistrate judge's  
28 report and recommendation where no objections have been filed. *See United States v.*

1 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review  
2 employed by the district court when reviewing a report and recommendation to which no  
3 objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.  
4 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that  
5 district courts are not required to review "any issue that is not the subject of an  
6 objection"). Thus, if there is no objection to a magistrate judge's recommendation, then  
7 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.  
8 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
9 which no objection was filed).

10 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in  
11 order to determine whether to adopt the R&R. The R&R finds that Defendant has failed  
12 to retain counsel and have counsel enter an appearance on behalf of Defendant after its  
13 former counsel was granted leave to withdraw. The Magistrate Judge also issued an  
14 order to show cause as to why Defendant should not be sanctioned for failure to appear  
15 for a scheduled hearing. Defendant did not respond to the order to show cause. Based  
16 on Defendant's failure to comply with the Court's orders and apparent tactics to delay  
17 litigation and disrupt the Court's timely management of its docket, the Magistrate Judge  
18 recommended default judgment be entered. Upon review of the R&R and the record in  
19 this case, the Court agrees with the Magistrate Judge.

20 Plaintiff has separately moved for default judgment after the R&R was entered.  
21 The Court has reviewed Plaintiff's Application and finds that Plaintiff has satisfied Fed. R.  
22 Civ. P. 55's requirements and the factors established by the Ninth Circuit in *Eitel v.*  
23 *McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). The Court thus finds that default  
24 judgment is appropriate even setting aside the Magistrate Judge's recommendation.

25 ///


26 ///

27 ///

28 ///

1 It is therefore ordered that the R&R (dkt. no. 47) is accepted and adopted. It is  
2 further ordered that Plaintiff's Application for Default Judgment (dkt. no. 49) is granted.  
3 (Dk. no. 49.)

4 Dated this 20<sup>th</sup> day of November 2013.

5  
6   
7 \_\_\_\_\_  
8 MIRANDA M. DU  
9 UNITED STATES DISTRICT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28